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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,172	06/14/2001	Christoph Foth	08920 - US	6781

7590 07/15/2003
Deere & Company
One John Deere Place
Moline, IL 61265-8098

EXAMINER

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/881,172

Applicant(s)

FOTH, CHRISTOPH

Examiner

Árpád Fábián Kovács

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim(s) 1-8, 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumgarten et al (5569081).

It is noted that, the Applicant provided changes to the drawings, among others a wind sensor (112), and a ground inclination sensor (114), and stated that one skilled in the art would know the use of these devices in combination of the distributing device. While claim 11 & 14 do not require (functional recitation: "can be") any of these devices, on the other hand claim 11 and 12, appears to further define whether the motor pivots as a function of a wind direction (cl. 11) or inclination of the ground (cl. 12). In view of the functional recitation of a function suggested by the Applicant as known to one the Applicant considers skilled in the art (Remarks, pg 3, paragraphs 2-4), as a result these claims (cl 11-12, 14-15) considered to not recite any limitations requiring further examination and/or consideration.

In re independent claims 1, 13, Baumgarten discloses a chopper and distribution device supported by frame of an agricultural combine used for typical harvester threshing/separating and distributing operation (fig 1 & 6, not numbered threshing,

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separating assembly; chopper at cutter drum ref 30, also, col. 2, lines 54-55, fig 4-5),
the distribution device comprising:

at least one guide vane and/or guide vanes (plates, ref 32);

a drive (35 and/or 35A and/or 35B), however, the drive maybe just a shaft moving the vanes back and forth, not numbered elements/drive shafts coupled to the motor ref 35 being the regulating motor (in re claim 10), operatively coupled to the guide vanes continuously moves the vanes back and forth (as shown on fig 5; and/or fig 2, refs 35A or 35B);

in re claim 2, the drive pivots the vanes about a vertical axis (axis 32A);

in re claim 3, the guide vanes are arranged transversely alongside each other and are connected to the drive (see fig 2-3; col 3, lines 35-40);

in re claim 4, the vanes are pivoted back and forth by an element (for example embodiments shown in fig 3 and/or 5, disk ref 36) which is rotated by the drive;

in re claim 5, a connecting rod that extends between the guide vanes (the rod which extends between the struts 33A-B and the element as best shown on fig 3) and a pin located in a hole in the element (a radially extending slot/aperture/hole at pin or fixing screw 36B as shown on fig 3);

in re claim 6, the hole of the element is a radially extending elongated hole (as shown on fig 3 at pin/screw 36B) and the pin can be locked in the elongated hole in various radial positions (by definition screw 36B allows to be locked, and also see col 3, lines 62-63);

in re claim 7, the guide vanes are connected to a strut (33A-B) which in turn is connected to the connecting rod (see fig 3), the guide vans can be locked to the strut so that the guide vanes can be repositioned (the vanes are locked to the struts, and the vanes can be repositioned as in col 3, lines 35-40);

in re claim 8, the guide vanes are connected over a connecting element with the strut (as best shown on fig 3, at connecting points to the strut), the distributing device is provided with a housing (31) having a top wall with an upper surface, the vanes are in sliding contact with the upper surface of the top wall (as best shown on fig 4, at ref 32; in fig 2-3, 5 & 7 is clearly shown as the guide vanes are in slidingly arranged on the upper surface of the top wall).

3. Claim(s) 1-3, 9, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Boehm et al (4218022).

In re independent claims 1, 13, Boehm discloses an agricultural combine, having inherently the typical parts, such as frame, threshing & separating of grain from straw and straw chopper (ref 12), as disclosed in col 1, lines 11-20, the distributing device comprising:

guide vanes (plates ref 60), a drive operatively coupled to the guide vanes continuously move the vanes back and forth in a transverse direction (or any desired adjustment positions, as disclosed in col. 2, lines 61-68, col 3, lines 81-21) ;

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in re claim 2, the vanes pivot about a vertical axis (64);

in re claim 3, the guide vanes are arranged transversely alongside each other and are connected to the drive (see fig 1, connected by trunnions ref 62);

in re claim 9, the guide vanes is provided with a diffuser (for example ref 76).

Response to Arguments

4. Applicant's arguments, amendment and IDS filed 10/31/2002 have been fully considered but they are not persuasive.

Applicant provided changes to the drawings, among others a wind sensor (112), and a ground inclination sensor (114), and stated that one skilled in the art would know the use of these devices in combination of the distributing device. While claim 11 & 14 do not require (functional recitation: "can be") any of these devices, on the other hand claim 11 and 12, appears to further define whether the motor pivots as a function of a wind direction (cl. 11) or inclination of the ground (cl. 12). In view of the functional recitation of a function suggested by the Applicant as known to one the Applicant considers skilled in the art (Remarks, pg 3, paragraphs 2-4), as a result these claims (cl 11-12, 14-15) considered to not recite any limitations requiring further examination and/or consideration.

Applicant's argument on page 3, 5th paragraph, it is unclear how did the Applicant consider that the connecting links & arms 33A & 33B would interfere and/or would not meet the language in the claim: "a drive" (ref 35, and/or other drives shown in other embodiments ref 35A and/or 35B) "continuously moves the guide vane back and forth."

It is noted that the Applicant did not address the rejection made by a second reference Boehm.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703 308 5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 308 8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.



Árpád Fábián Kovács
Examiner
Art Unit 3671

ÁFK
July 12, 2003